

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GLORIA SALTER,

NO. CIV. S-04-29 LKK/DAD

Plaintiffs,

v.

O R D E R

ANTHONY J. PRINCIPI; and
U.S. DEPARTMENT OF VETERAN'S
AFFAIRS,

Defendants.

_____/

In an order dated May 16, 2005, the court ordered plaintiff to show cause in writing why sanctions should not issue for failure to file a timely opposition in accordance with Local Rule 78-230. The court is in receipt of plaintiff counsel's response. No good cause being shown, counsel for plaintiff is SANCTIONED in the amount of one hundred and fifty (\$150.00) dollars. This sum shall be paid to the Clerk of the Court no later than thirty (30) days from the effective date of this order.

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1 Counsel shall file an affidavit accompanying the payment of this
2 sanction which states that it is paid personally by counsel, out
3 of personal funds, and is not and will not be billed, directly or
4 indirectly, to the client or in any way made the responsibility of
5 the client as attorneys' fees or costs.

6 In the May 16, 2005 Order, the court also continued the May
7 23, 2005 law and motion date to June 13, 2005. In addition to the
8 response to the Order to Show Cause, counsel for plaintiff has
9 requested an extension of time to respond to defendant's motion for
10 summary judgment, explaining to the court that he only learned of
11 the filing of the motion last Thursday, May 19, 2005, when he ran
12 into defense counsel at the courthouse. He explains that this late
13 notification was due to a change in his e-mail address which is not
14 on file with the court.

15 No good cause have been shown, the court would ordinarily deny
16 such a request.¹ Despite plaintiff's counsel's lack of diligence,
17 given the potential prejudice to his client, the hearing on the
18 motion for summary judgment presently before the court is CONTINUED

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20 ¹ Plaintiff's counsel is directed to Local Rule 83-182(f).
21 The court emphasizes that it is counsel's responsibility to keep
22 the court apprised of his current e-mail address. The court is
23 also compelled to note that it looks with skepticism upon
24 plaintiff's counsel's explanation that he failed to receive the
25 summary judgment motion because his e-mail address,
26 RKWerner@iwincases.net, did not allow for his receipt of the motion
for summary judgment. The court's own investigation reveals that
plaintiff's counsel updated his e-mail address with the court to
RKWerner@iwincases.net on March 2, 2005, and that since that time
the court has received no "bounced back" messages on that
particular address, strongly suggesting that plaintiff's counsel
has received and continues to receive notices from the court and
other parties.

1 to July 18, 2005 where it will be called on the court's regularly
2 scheduled Law and Motion Calendar, beginning at 10:00 a.m. In
3 addition, the court makes the following ORDERS:

4 1. Plaintiff shall electronically file and serve any
5 opposition papers to defendant's motion for partial summary
6 judgment by no later than June 24, 2005.

7 2. Defendant shall electronically file and serve any reply
8 to plaintiff's opposition by no later than July 1, 2005.

9 3. All parties shall e-mail a copy of their briefs in Word
10 or Wordperfect format to Tim Hinkle, Judicial Assistant, at
11 thinkle@caed.uscourts.gov.

12 IT IS SO ORDERED.

13 DATED: May 27, 2005.

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15 /s/Lawrence K. Karlton
16 LAWRENCE K. KARLTON
17 SENIOR JUDGE
18 UNITED STATES DISTRICT COURT
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